BOMBAY ACT No. XXVII OF 1955.[1]

[THE BOMBAY TOWN PLANNING ACT, 1954.]

[*5th August 1955*]

An Act to consolidate and amend the law for the making and execution of town planning schemes.

WHEREAS in order to ensure that town planning schemes are made in a proper manner and their execution is made effective, it is necessary to provide that a local authority shall prepare a development plan for the entire area within its jurisdiction ;

AND WHEREAS it is necessary and expedient to consolidate and amend the law relating to town planning for the aforesaid and other purposes hereinafter appearing ; It is hereby enacted in the Fifth Year of the Republic of India as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Town Planning Act, 1954.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " Consulting Surveyor " means the officer appointed as the Consulting Surveyor to the Government of Bombay ;

(*2*) " development plan " means a plan for the development or redevelopment or improvement of the entire area within the jurisdiction of a local authority prepared under section 3 ;

(*3*) " land " includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth ;

Bom. III of 1888. Bom. LIX of 1949. Bom. XVIII of 1925. Bom. III of 1901.

(*4*) " local authority " means a municipal corporation constituted under the Bombay Municipal Corporation Act, or the Bombay Provincial Municipal Corporations Act, 1949, or a municipality constituted under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, and includes also—

Bom. III of 1901.

(*a*) a committee appointed for a notified area under the Bombay District Municipal Act, 1901, which is permitted in this behalf by the State Government to exercise the powers of a local authority under this Act ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1954, Part V, p. 232.

(*b*) a panchayat constituted under the Bombay Village Panchayats Act, 1933, which is permitted in this behalf by the State Government to exercise the powers of a local authority under this Act; Bom. VI of 1933.

(*5*) "owner" includes any person for the time being receiving or entitled to receive whether on his own account or as agent, trustee, guardian, manager or receiver for another person or for any religious or charitable purpose, the rents or profits of the property in connection with which it is used;

(*6*) "plot" means a continuous portion of land held in one ownership;

(*7*) "preliminary scheme" means a scheme relating to a town planning scheme prepared by the Town Planning Officer under section 45;

(*8*) "prescribed" means prescribed by rules or orders made under this Act;

(*9*) "reconstituted plot" means a plot which is in any way altered by the making of a town planning scheme;

Explanation.—"altered" includes alteration of ownership;

(*10*) "scheme" includes a plan relating to a town planning scheme.

CHAPTER II.

Development Plans.

Development plan.

3. (*1*) As soon as may be after the coming into force of this Act, subject however to the provisions of this Act, every local authority shall carry out a survey of the area within its jurisdiction and shall, not later than four years from the date on which this Act comes into force, prepare and publish in the prescribed manner a development plan and submit it to the State Government for sanction.

(*2*) Subject to the provisions of this Act, every local authority constituted after the coming into force of this Act shall, as soon as may be, carry out a survey of the area within its jurisdiction and shall, not later than four years from the date of such constitution, prepare and publish in the prescribed manner the development plan for the area within its jurisdiction and submit it for the sanction of the State Government.

(*3*) On application made by any local authority referred to in sub-section (*1*) or (*2*), the State Government may from time to time by order in writing extend for adequate reasons the aforesaid period by such period as it thinks fit.

(*4*) If the development plan is not prepared, published and submitted to the State Government for sanction by any local authority within the period specified in sub-section (*1*) or (*2*) or within the period so extended under sub-section (*3*), as the case may be, the State Government may, after carrying out the necessary survey of the areas and consulting the Consulting Surveyor, prepare and publish in the prescribed manner such plan and recover the cost thereof from the local authority out of its funds, notwithstanding anything contained in any law relating to the said fund.

(*5*) Notwithstanding anything contained in sub-section (*4*),—

(*i*) if any local authority has prepared a plan for the development of the area within its jurisdiction before the date of the coming into force of this Act, it may submit the same to the State Government for sanction within a period of six months from the said date and the plan so sanctioned shall, notwithstanding anything contained in this Act, be deemed to be the development plan for the area;

(*ii*) if any local authority is converted into, or amalgamated with, any other local authority or is sub-divided into two or more local authorities, the development plan prepared for the area by the local authority so converted, amalgamated or sub-divided shall, with such alterations and modifications, as the State Government may approve, be deemed to be the development plan for the area of the new local authority or local authorities into or with which the former local authority was converted, amalgamated or sub-divided.

Declaration of intention of making development plan.

4. (*1*) A local authority before carrying out a survey of the area referred to in sub-sections (*1*) and (*2*) of section 3 for the purpose of preparing a development plan for such area shall make a declaration of its intention to prepare a development plan and shall despatch a copy thereof to the State Government for publication in the *Official Gazette* and shall publish it in the prescribed manner for inviting suggestions from the public within a period of two months :

Provided that the development plan may be prepared and published by the State Government under sub-section (*4*) of section 3 without making a declaration of intention as aforesaid.

(*2*) A copy of the development plan shall be sent to the State Government and another copy shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

Manner of preparing development plan.

5. The development plan shall be on a scale not smaller than 800 feet to an inch and shall define in distinguishing colours the area or sites and the users to which they will be put.

Power of entry for carrying out survey for preparing development plan.

6. For the purpose of carrying out a survey and the preparation of a development plan, any person authorized by the State Government or the local authority or any public servant or person duly authorized or appointed under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in the land, enter upon, survey and mark out such land and do all things necessary for such purpose.

Contents of development plan.

7. A development plan shall generally indicate the manner in which the development and improvement of the entire area within the jurisdiction of the local authority are to be carried out and regulated. In particular it shall contain the following proposals, namely :—

(*a*) proposals for designating the use of the land for the purposes such as (1) residential, (2) industrial, (3) commercial, and (4) agricultural;

(*b*) proposals for designation of land for public purposes such as parks, playgrounds, recreation grounds, open spaces, schools, markets or medical, public health or physical culture institutions ;

(*c*) proposals for roads and highways;

(*d*) proposals for the reservation of land for the purposes of the Union, any State, any local authority or any other authority established by law in India ; and

(*e*) such other proposals for public or other purposes as may from time to time be approved by a local authority or directed by the State Government in this behalf.

Submission of development plan and other information to Government.

8. The following particulars shall be published and submitted to the State Government along with the development plan :—

(*i*) a report of the surveys carried out by the local authority before the preparation of the development plan ;

(*ii*) a report explaining the provisions of the development plan ;

(*iii*) regulations enforcing the provisions of the development plan, and explaining the manner in which necessary permission for developing any land can be obtained from the local authority ;

(*iv*) a report of the stages by which it is proposed to meet the obligations imposed on the local authority by the development plan ;

(*v*) an approximate estimate of the cost involved in the acquisition of lands reserved for public purposes.

Suggestions to development plan to be considered.

9. If within two months from the date of publication of the development plan any member of the public communicates in writing to the local authority any suggestion relating to such plan, the local authority shall consider such suggestion and may, at any time before submitting the development plan to the State Government, modify such plan as it thinks fit.

Power of Government to sanction development plan.

10. (*1*) The State Government may, after consulting the Consulting Surveyor, by notification in the *Official Gazette*, sanction the development plan submitted to it either without modification or subject to such modification as it considers expedient within the time prescribed.

(*2*) The State Government shall fix in such notification a date not earlier than one month after the publication of such notification on which the final development plan shall come into force.

(*3*) If the development plan contains any proposal for the designation of any land for a purpose specified in clause (*b*) or (*e*) of section 7 and if such land does not vest in the local authority, the State Government shall not include the said purpose in the development plan unless it is satisfied that the local authority concerned shall be able to acquire such land by private agreement or compulsory purchase within a period of ten years from the date on which the final development plan comes into force.

Acquisition of land.

11. (*1*) The local authority may acquire any land designated in the development plan for a purpose specified in clause (*b*), (*c*), (*d*) or (*e*) of section 7 either by agreement or under the Land Acquisition Act, 1894. I of 1894.

(*2*) If the land is acquired under the Land Acquisition Act, 1894, the provisions of the said Act as amended by the Schedule to this Act shall apply to the determination of compensation for the acquisition of such land. I of 1894.

(*3*) If the designated land is not acquired by agreement within ten years from the date specified under sub-section (*3*) of section 10 or if proceedings under the Land Acquisition Act, 1894, are not commenced within such period, the owner or any person interested in the land may serve notice to the local authority and if within six months from the date of the service of such notice the land is not acquired or no steps as aforesaid are commenced for its acquisition, the designation shall be deemed to have lapsed. I of 1894.

Restrictions on development work after publication of declaration of intention under section 4 (*1*).

12. On or after the date on which a declaration of intention to prepare a development plan is published under sub-section (*1*) of section 4 in respect of any area, no person shall carry on any development work in any building or in or over any land within the limits of the said area without the permission of the local authority which shall be contained in a commencement certificate granted by the local authority in the form prescribed.

Explanation.—For the purpose of this section,—

(*a*) the expression "development" means the carrying out of building or other operation in or over or under any land or the making of any material change in the use of any building or other land ;

(*b*) the following operations or uses of land shall not be deemed to involve the development of any building or land, namely :—

(*i*) the carrying out of works for the maintenance, improvement or other alteration of any building being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(*ii*) the carrying out of works in compliance with any order or direction made by any authority under any law for the time being in force ;

(*iii*) the carrying out of works by any authority in exercise of its powers under any law for the time being in force ;

(*iv*) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such ;

(*v*) when the normal use of land which was being temporarily used for another purpose on the day on which the declaration of intention to prepare the development plan is published under sub-section (*1*) of section 4 is resumed ;

(*vi*) when land was normally used for one purpose and also on occasions for another purpose, the use of the land for that other purpose on similar occasions.

Permission for development of building or land.

13. (*1*) The local authority on receipt of the application for permission shall at once furnish the applicant with a written acknowledgment of its receipt and after inquiry may either grant or refuse a commencement certificate :

Provided that such certificate may be granted subject to such general or special conditions as the State Government may by order made in this behalf direct.

(*2*) If the local authority does not communicate its decision to the applicant within three months from the date of such acknowledgment, such certificate shall be deemed to have been granted to the applicant.

(*3*) Subject to the provisions of sections 14 and 15, no compensation shall be payable for the refusal of or the insertion or imposition of conditions in the commencement certificate.

(*4*) If any person does any work on, or makes any use of, any property in contravention of section 12 or of sub-section (*1*) of this section, the local authority may direct such person by notice in writing to stop any such work in progress or discontinue any such use ; and may, after making an inquiry in the prescribed manner, remove or pull down any such work and restore the land to its original condition or, as the case may be, take any measures to stop such use.

(*5*) Any expenses incurred by the local authority under sub-section (*4*) shall be a sum due to the local authority under this Act from the person in default or the owner of the land.

Supplementary provision as to grant of permission.

14. The power to grant necessary permission for a change of user of land shall include the power to grant permission for the retention on land of any building or work constructed or carried out thereon before the date of the publication of the declaration of intention to prepare a development plan under sub-section (*1*) of section 4 or for the continuance of any use of land instituted before that date.

Obligation to purchase land on refusal of permission in certain cases.

15. (*1*) Where permission for change of user of land of the kind referred to in section 14 is refused or is granted subject to the conditions, then if any owner of the land claims—

(*a*) that the land has become incapable of reasonable beneficial use in its existing state, or

(*b*) in a case where permission for such use is granted subject to conditions that the land cannot be rendered capable of reasonable beneficial use by carrying out the conditions of the permission,

he may, within the time and in the manner prescribed by regulations made by the local authority, serve on the local authority a notice (hereinafter referred to as a purchase notice) requiring the local authority to purchase his interest in the land in accordance with the provisions of this section.

(*2*) Where a purchase notice is served on a local authority under this section, the local authority shall forthwith transmit a copy of the notice to the State Government and the State Government shall, if it is satisfied that the conditions specified in paragraph (*a*) or (*b*) of sub-section (*1*), as the case may be, are fulfilled, confirm the notice, and thereupon the local authority shall be deemed to be authorized to acquire the interest of the owner compulsorily in accordance with the provisions of this Act, and to have served a notice to acquire in respect thereof on such date as the State Government may direct.

(*3*) If within the period of six months from the date on which the purchase notice is served under this section the State Government has not confirmed the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the local authority on which the notice was served shall be deemed to be authorized to acquire the interest of the owner compulsorily in accordance with the provisions of this Act at the expiration of the said period.

(*4*) The provisions of section 81 shall, so far as may be, apply in relation to the compulsory acquisition of interest of the owner of land under this section as they apply in relation to land needed for a public purpose under this Act.

Sanction for sub-division of plot or lay-out of private street.

16. (*1*) Every person who intends to sub-divide his plot or make or lay out a private street on or after the date of the publication of the declaration of intention to prepare the development plan shall submit the layout plan together with the prescribed particulars to the local authority for sanction.

(*2*) The local authority may, within the prescribed period, sanction such plan either without modifications or subject to such modifications and conditions as it considers expedient, or may refuse to give sanction, if the local authority is of opinion that such division or laying out is not in any way consistent with the proposals of the development plan.

(*3*) No compensation shall be payable for the refusal or the insertion, imposition or modification of conditions in the grant of sanction.

(*4*) If any person does any work in contravention of sub-section (*1*) or in contravention of the modifications and conditions of the sanction granted under sub-section (*2*) or despite refusal for the sanction under the said sub-section (*2*), the local authority may direct such person by notice in writing to stop any work in progress, and after making an inquiry in the prescribed manner remove or pull down any work or restore the land to its original condition.

(5) Any expenses incurred by the local authority under sub-section (4) shall be a sum due to the local authority under this Act from the person in default.

Revision of development plan.

17. At least once in every ten years from the date on which the last development plan came into force, the local authority may, and if so required by the State Government after the date on which a development plan for any area has come into force shall, carry out a fresh survey of the area within its jurisdiction with a view to revising the existing development plan and the provisions of sections 4 to 16 (both inclusive) shall, so far as they can be made applicable, apply in respect of such revision of the development plan.

CHAPTER III.

Making of Town Planning Scheme.

Making and contents of town planning scheme.

18. Subject to the provisions of this Act or any other law for the time being in force,—

(1) a local authority for the purpose of implementing the proposals in the final development plan may make one or more town planning schemes for the area within its jurisdiction or any part thereof;

(2) such town planning scheme may make provisions for any of the following matters:—

(a) the laying out or re-laying out of land, either vacant or already built upon;

(b) the filling up or reclamation of lowlying, swamp or unhealthy areas or levelling up of land;

(c) lay out of new streets or roads; construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;

(d) the construction, alteration and removal of buildings, bridges and other structures;

(e) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, green belts and dairies, transport facilities and public purposes of all kinds;

(f) drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal;

(g) lighting;

(h) water supply;

(i) the preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;

(j) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, size, height and character of buildings allowed in specified areas, the purposes to which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable users of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs;

(k) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule, by-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

(l) such other matter not inconsistent with the objects of this Act as may be prescribed.

Disputed ownership.

19. (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which the local authority has declared under section 22 its intention to make a town planning scheme and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an inquiry may be held on an application being made by the local authority or the Town Planning Officer at any time prior to the date on which the Town Planning Officer draws up the final scheme under sub-section (*1*) of section 32, by such officer as the State Government may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

20. For the purpose of the making or execution of any town-planning scheme, any person authorized by the local authority or any public servant or person duly appointed or authorized under this Act, may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

CHAPTER IV.

Declaration of intention to make a scheme and making of a draft scheme.

Land in respect of which town planning scheme may be made.

21. (*1*) A town planning scheme may be made in accordance with the provisions of this Act in respect of any land which is—

(*i*) in course of development,
(*ii*) likely to be used for building purposes, or
(*iii*) already built upon.

(*2*) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, parking spaces, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not.

Power of local authority to resolve on declaration of intention to make scheme.

22. (*1*) A local authority having jurisdiction over any such land as is referred to in section 21 may by resolution declare its intention to make a town planning scheme in respect of the whole or any part of such land.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as the declaration of intention to make a scheme), the local authority shall publish it in the prescribed manner and shall despatch a copy thereof to the State Government.

(*3*) The local authority shall send a plan showing the area which it proposes to include in the town planning scheme to the State Government.

(*4*) A copy of the plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

Making and publication of draft scheme.

23. (*1*) Within 12 months from the date of the declaration of intention to make a scheme the local authority shall make in consultation with the Consulting Surveyor a draft scheme for the area in respect of which the declaration has been made and publish the same in the prescribed manner :

Provided that on application by the local authority in that behalf, the State Government may from time to time, by a notification in the *Official Gazette*, extend the aforesaid period by such period as may be specified not exceeding six months in all.

(*2*) If the draft scheme is not made and published by the local authority within the period specified in sub-section (*1*) or within the period so extended under that sub-section, the State Government or an officer authorised by the State Government in this behalf may make and publish in the prescribed manner a draft scheme for the area in respect of which the declaration of intention to make a scheme has been made by the local authority within a further period of nine months from the date of the expiry of the extended period.

(*3*) If such publication is not made by the State Government within the further period specified in sub-section (*2*), the declaration of intention to make such scheme shall lapse, and until a period of three years has elapsed from the date of such declaration it shall not be competent to the local authority to declare its intention to make any town-planning scheme for the same area or for any part of it.

Power of State Government to require local authority to make scheme.

24. (*1*) Notwithstanding anything contained in sections 22 and 23, the State Government may, in respect of any local authority after making such inquiry as it deems necessary, by notification published in the prescribed manner require the local authority to make and publish in the prescribed manner and submit for its sanction a draft scheme in respect of any land in regard to which a town-planning scheme may be made.

(*2*) For the purposes of this Act and the rules made thereunder, the requisition under sub-section (*1*) by the State Government shall be deemed to be the declaration of intention to make a scheme under section 22.

Contents of draft scheme.

25. The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot ;

(*b*) the land allotted or reserved under sub-clause (e) of clause (2) of section 18 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses ;

(*c*) the extent to which it is proposed to alter the boundaries of original plots ;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority ;

(*e*) a full description of all details of the scheme under such sub-clauses of clause (2) of section 18 as may be applicable ;

(*f*) the laying out or re-laying out of land either vacant or already built upon ;

(*g*) the filling up or reclamation of lowlying, swamp or unhealthy areas or levelling up of land ; and

(*h*) any other prescribed particulars.

Reconstituted plot.

26. (*1*) In the draft scheme the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot is already built upon, to ensure that the building as far as possible complies with the provisions of the scheme as regards open spaces.

(*2*) For the purpose of sub-section (*1*), the draft scheme may contain proposals,—

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot ;

(*b*) to form a reconstituted plot by the transfer wholly or partly of the adjoining lands ;

(*c*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot ;

(*d*) to allot a plot to any owner dispossessed of land in furtherance of the scheme ; and

(*e*) to transfer the ownership of a plot from one person to another.

(*3*) Where under sub-clause (j) of clause (2) of section 18, the purposes to which buildings or areas may not be appropriated have been specified, the building shall cease to be used for the purpose other than the purposes specified in the scheme within such time as may be specified in the final scheme and the person affected by the provision shall be entitled to compensation from the local authority in the manner and according to the method prescribed :

Provided that in ascertaining such compensation the time within which the person affected was permitted to change the user shall be taken into consideration.

Objections to draft scheme to be considered.

27. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme, the local authority shall consider such objection and may, at any time before submitting the draft scheme to the State Government as hereinafter provided, modify such scheme as it thinks fit.

Power of State Government to sanction scheme.

28. (*1*) The local authority shall within four months from the date of its publication in the *Official Gazette* submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the State Government and shall at the same time apply for its sanction.

(*2*) After receiving such application and after making such inquiry as it may think fit and after consulting the Consulting Surveyor, the State Government may, within six months from the date of its submission, by notification in the *Official Gazette*, either sanction such scheme with or without modifications and subject to such conditions as it may think fit to impose or refuse to give sanction.

(*3*) If the State Government sanctions such scheme, it shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

Restrictions after declaration for town planning schemes.

29. (*1*) On or after the date on which the local authority's declaration of intention to make a scheme under section 22 or the notification issued by the State Government under section 24 is published in the *Official Gazette*,—

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work or remove, pull down, alter, make additions to, or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land, or change the user of any land or building unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt and—

(*i*) in the case of a local authority other than a municipal corporation, after inquiry and in consultation with the Town Planning Officer, if any, appointed under section 31, or

(*ii*) in the case of a municipal corporation, after inquiry,

may either grant or refuse such certificate or grant it subject to such conditions as the local authority may, with the previous approval of the State Government, think fit to impose. If a municipal corporation gives permission under this clause either without or with conditions, it shall inform the Town Planning Officer accordingly and shall send to him a plan and a copy of conditions imposed, if any. If the local authority communicates no decision to the applicant within three months from the date of such acknowledgment, the applicant shall be deemed to have been granted such certificate ;

(*c*) if any person contravenes the provisions contained in clause (*a*) or clause (*b*), the local authority may direct such person by notice in writing to stop any work in progress, and after making inquiry in the prescribed manner, remove, pull down or alter any building or other work or restore the land in respect of which such contravention is made to its original conditions ;

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default or the owner of the plot ;

(*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*) or clause (*b*) shall, notwithstanding anything contained in sections 64, 65 and 66, be taken into account in fixing the market value of such plot.

(*2*) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 55 except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme or the State Government published a notification under sub-section (*1*) of section 24 and only in so far as such building or work has proceeded at the time of the publication of the declaration of intention to make a scheme or the publication of the notification under sub-section (*1*) of section 24 :

Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.

(*3*) The restrictions imposed by this section shall cease to operate in the event of the State Government refusing to sanction the draft scheme or the final scheme or in the event of the withdrawal of the scheme under section 52.

Power of State Government to suspend rule, by-law, etc.

30. (*1*) When a local authority has published a declaration of intention to make a scheme or the State Government has published a notification under sub-section (*1*) of section 24, the State Government may, by order published in the *Official Gazette*, suspend to such extent only as may be necessary for the proper carrying out of the scheme any rule, by-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend.

(*2*) Any order issued under sub-section (*1*) shall cease to operate in the event of the State Government refusing to sanction the final scheme, or in the event of the withdrawal of the scheme under section 52, or in the event of the coming into force of the final scheme.

CHAPTER V.

The Town Planning Officer and the Board of Appeal.

Appointment of Town Planning Officer

31. (*1*) Within one month from the date on which the sanction of the State Government to the draft scheme is published in the *Official Gazette*, the State Government shall appoint a Town Planning Officer with sufficient establishment whose duties shall be as hereinafter provided.

(*2*) The State Government may, if it thinks fit, at any time, remove for incompetence or misconduct or any other good and sufficient reason a Town Planning Officer appointed under this section and shall forthwith appoint another person to take his place and any proceedings pending before the Town Planning Officer immediately before the date of his removal shall be continued and disposed of by the new Town Planning Officer appointed in his place.

Duties of Town Planning Officer.

32. (*1*) In accordance with the prescribed procedure the Town Planning Officer shall,—

(*i*) after notice given by him in the prescribed manner, define and demarcate the areas allotted to, or reserved, for a public purpose or purpose of the local authority and the reconstituted plots;

(*ii*) after notice given by him in the prescribed manner, determine, in the case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons;

(*iii*) fix the difference between the total of values of the original plots and the total of the values of the plots included in the final scheme, in accordance with the provisions contained in clause (*f*) of sub-section (*1*) of section 64;

(*iv*) determine whether the areas used, allotted or reserved for a public purpose or purpose of the local authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

(*v*) estimate the portion of the sums payable as compensation on each plot used, allotted or reserved for a public purpose or purpose of the local authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;

(*vi*) calculate the contribution to be levied on each plot used, allotted or reserved for a public purpose or purpose of the local authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(*vii*) determine the amount of exemption, if any, from the payment of the contribution that may be granted in respect of plots exclusively occupied for the religious or charitable purposes;

(*viii*) estimate the increment to accrue in respect of each plot included in the final scheme in accordance with the provisions contained in section 65;

(*ix*) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme in accordance with the provisions contained in section 66;

(*x*) calculate the contribution to be levied on each plot included in the final scheme;

(*xi*) determine the amount to be deducted from, or added to, as the case may be, the contribution leviable from a person in accordance with the provisions contained in section 67;

(*xii*) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in an original plot in accordance with the provisions contained in section 68;

(*xiii*) estimate in reference to claims made before him, after the notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme in accordance with the provisions contained in section 69;

(*xiv*) draw in the prescribed form the final scheme in accordance with the draft scheme:

Provided that—

(*a*) he may make variation from the draft scheme;

(*b*) any variation estimated by him to involve an increase of 10 per centum in the costs of the scheme as is described in section 64 or rupees one lakh, whichever is lower, shall require the sanction of the State Government:

Provided further that the Town Planning Officer shall make no substantial variation without the consent of the local authority and without hearing any objections which may be raised by the owners concerned.

(*2*) If there is any difference of opinion between the Town Planning Officer and the local authority whether variation made by the Town Planning Officer is substantial or not, the matter shall be referred by the local authority to the State Government whose decision shall be final and conclusive.

(*3*) The Town Planning Officer appointed for any draft scheme shall decide all matters referred to in sub-section (*1*) within a period of twelve months from the date of his appointment:

Provided that the State Government may from time to time by order in writing extend the said period by such further period as may be specified in the order.

Certain decisions of Town Planning Officer to be final.

33. Except in matters arising out of clauses (*v*), (*vi*), (*viii*), (*ix*), (*x*) and (*xiii*) of sub-section (*1*) of section 32, every decision of the Town Planning Officer shall be final and conclusive and binding on all persons.

Appeal.

34. Any decision of the Town Planning Officer under clauses (*v*), (*vi*), (*viii*), (*ix*), (*x*) and (*xiii*) of sub-section (*1*) of section 32 shall be forthwith communicated to the party concerned and any party aggrieved by any such decision, may, within one month from the date of the communication of the decision, appeal to the Board of Appeal constituted under section 35.

Constitution of Board of Appeal.

35. (*1*) The Board of Appeal shall consist of a President and two Assessors.

(*2*) The President shall, in Greater Bombay, be the Principal Judge of the City Civil Court, Bombay, or such other Judge of the said Court as may be appointed by the State Government on the recommendation of the Principal Judge and elsewhere be the District Judge.

(*3*) The President shall appoint fit and proper persons as Assessors.

(*4*) The President and the Assessors shall be appointed members of the Board of Appeal for such period as may be required by such Board to decide an appeal made against the decision under clauses (*v*), (*vi*), (*viii*), (*ix*), (*x*) and (*xiii*) of sub-section (*1*) of section 32.

(*5*) The State Government may, if it thinks fit, remove for incompetence or misconduct or any other good and sufficient reason an Assessor appointed under sub-section (*3*).

(*6*) If any Assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such Assessor shall appoint forthwith a fit and proper person to take the place of such Assessor.

Town Planning Officer to assist Board in advisory capacity and his remuneration.

36. (*1*) The Town Planning Officer shall be present at the proceedings before the Board of Appeal. He shall not be required to give evidence in such proceedings but the President may require him to assist the Board in an advisory capacity.

(*2*) When the Town Planning Officer is required under sub-section (*1*) to assist the Board of Appeal he shall, save where he is a salaried officer of Government, be entitled to such fees as the State Government may from time to time determine.

Place where Board may sit.

37. The Board of Appeal may sit either at the headquarters of the President or at any other place within the local limits of his jurisdiction which he may deem convenient for the consideration and decision of any matter before such Board.

Right to appear by recognised agent.

38. Every party to any proceeding before the Board of Appeal shall be entitled to appear either in person or by his recognised agent.

Decision of questions of law and other questions.

39. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by a majority of them.

Powers of Board to decide matters finally.

40. (*1*) After making such inquiry as it may think fit, the Board of Appeal may either direct the Town Planning Officer to reconsider his proposals, or accept, modify, vary or reject the proposals of the Town Planning Officer and shall decide all matters arising out of clauses (*v*), (*vi*), (*viii*), (*ix*), (*x*) and (*xiii*) of sub-section (*1*) of section 32.

(*2*) Every decision of the Board of Appeal shall be final and conclusive and binding on all persons.

Board not to be Court.

41. Nothing contained in this Act shall be deemed to constitute the Board of Appeal to be a Court.

Remuneration of Town Planning Officer and Assessors and payment of incidental expenses of Board.

42. (*1*) The Assessors shall, save where they are salaried Government officers, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the State Government may, from time to time, determine.

(*2*) The salary of the President of the Board of Appeal or an Assessor who is a salaried Government officer, and any remuneration payable under sub-section (*1*) and fees payable to a Town Planning Officer under sub-section (*2*) of section 36 and all expenses incidental to the working of the Board of Appeal shall, unless the State Government otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

Decision of Town Planning Officer to be final in certain matters and variation of scheme in view of decision in appeal.

43. (*1*) Where no appeal has been made under section 34, the decision of the Town Planning Officer under clauses (*v*), (*vi*), (*viii*), (*ix*), (*x*) and (*xiii*) of sub-section (*1*) of section 32 shall be final and binding on the parties.

(*2*) The Board of Appeal shall send a copy of its decision in appeal to the Town Planning Officer who shall then, if necessary, make variation in the scheme in accordance with such decision and shall forward the final scheme together with a copy of his decision under section 32 and a copy of the decision of the Board of Appeal in appeal to the State Government for the sanction of the final scheme.

CHAPTER VI.

Splitting up of schemes into sections and preliminary schemes.

Powers of Town Planning Officer to split up draft scheme into separate sections.

44. After a Town Planning Officer has been appointed under section 31, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The Town Planning Officer may, after making such inquiry as he thinks fit, split up the draft scheme into sections. Thereafter the provisions of this Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft scheme.

Town Planning Officer to prepare preliminary scheme.

45. If a draft scheme or if any of the sections of a draft scheme contains any of the following works—

(*i*) construction or alteration of bridges,

(*ii*) roads, open spaces, gardens and recreation grounds,

(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposal,

(*iv*) water supply,

(*v*) any other work which in the opinion of the Town Planning Officer is for a public purpose,

the Town Planning Officer shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 32:

Provided that it shall not be necessary for the Town Planning Officer at this stage to exercise the powers referred to in clauses (*iii*), (*iv*), (*v*), (*vi*), (*vii*), (*viii*), (*ix*), (*x*), (*xi*), (*xiii*) and (*xiv*) of sub-section (*1*) of section 32.

Power to hand over possession of land required for bridges, roads, etc.

46. (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 45 and included in a preliminary scheme, the local authority shall make an application through the Town Planning Officer to the State Government to vest in it the land shown in the preliminary scheme.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purpose of executing any of the works aforesaid, may direct the Town Planning Officer by notification in the *Official Gazette* to take possession of the land and may also fix the period during which the execution of the said works shall be completed:

Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The Town Planning Officer shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the Town Planning Officer requiring him to give possession of his land to the Town Planning Officer or any person authorized by him in this behalf within a period of one month from the date of service of notice and if no possession is delivered within the period specified in the notice, the Town Planning Officer shall take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 51, vest absolutely in the local authority free from all encumbrances.

Commissioner or Magistrate to enforce delivery of possession of land.

47. (*1*) If the Town Planning Officer is opposed or impeded in taking possession of the land under section 46, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the delivery of possession of the land to the Town Planning Officer. The Commissioner

or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Town Planning Officer.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

48. The owner of the land the possession of which is taken by the Town Planning Officer under section 46 or 47 shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under this Act in respect of the said land from the date on which such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 50, as the case may be.

Application of Chapter to pending schemes.

49. Notwithstanding anything contained in this Act, it shall be lawful to any local authority to apply to the Town Planning Officer for the splitting up of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof; and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

Explanation.—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under the corresponding provisions of the Bombay Town Planning Act, 1915, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40 of the said Act. Bom. I of 1915.

Compensation for land vested in local authority under section 46 and restoration of such land in certain cases.

50. If the local authority has not executed any works on the land for which the land was vested in the local authority under section 46 within the period fixed under sub-section (*2*) of the said section, the Town Planning Officer shall make or tender to the owner or the person interested in the land such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.

Final scheme.

51. (*1*) The State Government may, within a period of three months from the date of receipt of the final scheme under section 43 from the Town Planning Officer, by notification in the *Official Gazette*, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the State Government may make such modifications as may in its opinion be necessary for the purposes of correcting an error, irregularity or informality.

(*2*) If the State Government sanctions such scheme, it shall state in the notification—

(*a*) the place at which the final scheme is kept open to inspection by the public;

(*b*) the price at which copies may be obtained;

(*c*) a date (which shall not be earlier than one month after the date of the publication of the notification) on which all the liabilities created by the scheme shall take effect and the final scheme shall come into force:

Provided that the State Government may from time to time postpone such date, by notification in the *Official Gazette*, by such period, not exceeding three months at a time, as it thinks fit.

(*3*) On and after the date fixed in such notification a town-planning scheme shall have effect as if it were enacted in this Act.

Withdrawal of scheme.

52. If at any time before the final scheme is forwarded by the Town Planning Officer to the State Government, a representation is made to the Town Planning Officer by the local authority and a majority of the owners in the area that the scheme should be withdrawn, the Town Planning Officer shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation together with the objections, if any, to the State Government. After making such inquiry as it may think fit, the State Government may, by notification in the *Official Gazette*, direct that the scheme shall be withdrawn and upon such withdrawal no further proceedings shall be taken in regard to such scheme.

Effect of final scheme

53. On the day on which the final scheme comes into force,—

(*a*) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances;

(*b*) all rights in the original plots which have been re-constituted shall determine and the re-constituted plots shall become subject to the rights settled by the Town Planning Officer.

Power of local authority to evict summarily

54. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to enforce scheme.

55. (*1*) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

(*a*) remove, pull down, or alter any building o rother work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with;

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(*2*) Any expenses incurred by the local authority under this section may be recovered from the persons in default or from the owner of the plot in the manner provided for the recovery of sums due to the local authority under the provisions of this Act.

(*3*) If any question arises as to whether any building or work contravenes a town planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, it shall be referred to the State Government or any officer authorized by the State Government in this behalf and the decision of the State Government or of the officer, as the case may be, shall be final and conclusive and binding on all persons.

Power to vary scheme on ground of error, irregularity or informality.

56. (*1*) If after the final scheme has come into force, the local authority considers that the scheme is defective on account of an error, irregularity or informality, the local authority may apply in writing to the State Government for the variation of the scheme.

(*2*) If on receiving such application or otherwise, the State Government is satisfied that the variation required is not substantial, the State Government shall publish a draft of such variation in the prescribed manner.

(*3*) The draft variation published under sub-section (*2*) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the sub-clauses (*a*) to (*h*) of clause (2) of section 18 the draft variation shall also contain such other particulars as may be prescribed.

(*4*) The draft variation shall be open to the inspection of the public at the office of the local authority during office hours.

(*5*) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objections to such variation to the State Government through the Collector and send a copy thereof to the local authority.

(*6*) After receiving the objections under sub-section (*5*) the State Government may, after consulting the local authority and after making such inquiry as it may think fit, by notification in the *Official Gazette*,—

(*a*) appoint a Town Planning Officer and thereupon the provisions contained in Chapter V shall, so far as may be, apply to such draft variation, as if it were a draft scheme sanctioned by the State Government, or a scheme sanctioned by the State Government, or

(*b*) make the variation with or without modifications, or

(*c*) refuse to make the variation.

(*7*) From the date of the notification making the variation, with or without modifications, such variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke town planning scheme.

57. (*1*) Notwithstanding anything contained in section 56 a town-planning scheme may at any time be varied or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.

(*2*) The State Government—

(*i*) on the application of the local authority, or

(*ii*) of its own motion, after making such inquiry as it deems fit and after giving the local authority an opportunity to be heard,

may at any time, by notification in the *Official Gazette*, revoke a town-planning scheme, if it is satisfied that under the special circumstances of the case the scheme should be so revoked.

Compensation when final scheme is varied or revoked.

58. If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

Apportionment of costs of scheme withdrawn, not sanctioned or revoked.

59. In the event of a town-planning scheme being withdrawn or sanction to a final scheme being refused by the State Government or a final scheme being revoked, the State Government may direct that the costs of the scheme shall be borne by the local authority or be paid to the local authority by the owners concerned, in such proportion as the State Government may in each case determine.

60. Every party to any proceeding before the Town Planning Officer shall be entitled to appear either in person or by his recognized agent. Right to appear by recognized agent.

61. For the purposes of this Act, an officer appointed under sub-section (*1*) of section 19, or a Town Planning Officer or the Board of Appeal may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. V of 1908. Power to compel attendance of witnesses.

CHAPTER VII.

Joint Town Planning Schemes.

62. (*1*) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town planning scheme, and the State Government agrees with such opinion, a joint Town Planning Board shall be constituted. Joint town-planning schemes.

(*2*) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the State Government.

(*3*) The representatives of the several local authorities shall be elected in the prescribed manner.

(*4*) Such Board, when duly constituted, shall make a declaration of the intention to make a joint town planning scheme in respect of the contiguous areas in the manner provided in section 22 ; and thereafter the Board shall have all the powers and be liable to all the duties of a local authority under this Act and all the provisions in respect of procedure shall apply so far as may be applicable.

(*5*) The draft joint town-planning scheme shall specify the parts of the scheme to be executed by the several local authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas as if they are separate schemes :

Provided that any part of a joint town planning scheme may be executed jointly by two or more local authorities.

63. A joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 29, 54 and 55 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by such officer as the joint Town Planning Board may specify in the order. Delegation of certain powers of local authority and joint Town Planning Board.

CHAPTER VIII.

Finance.

64. (*1*) The costs of a town planning scheme shall include— Costs scheme.

(*a*) all sums payable by the local authority under the provisions of this Act, which are not specifically excluded from the costs of the scheme ;

(*b*) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme;

(*c*) all sums payable as compensation for land reserved or designated for any public purpose or purpose of the local authority which is solely beneficial to the owners or residents within the area of the scheme;

(*d*) such portion of the sums payable as compensation for land reserved or designated for any public purpose or purpose of the local authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such reservation or designation;

(*e*) all legal expenses incurred by the local authority in the making and in the execution of the scheme;

(*f*) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without references to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(*2*) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (*f*) of sub-section (*1*), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in sub-section (*1*).

Calculation of increment.

65. For the purposes of this Act the increments shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme:

Provided that in estimating such values the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution towards costs of scheme.

66. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Town Planning Officer:

Provided that—

(*i*) no such contribution shall exceed half the increment estimated by the Town Planning Officer to accrue in respect of such plot;

(*ii*) where a plot is subject to a mortgage with possession or to a lease the Town Planning Officer shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution;

(*iii*) no such contribution shall be levied on a plot used, allotted or reserved for a public purpose or purpose of the local authority which is solely for the benefit of owners or residents within the area of the scheme; and

(*iv*) the contribution levied on a plot used, allotted or reserved for a public purpose or purpose of the local authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.

(*2*) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

Certain amount to be added to or deducted from contribution leviable from a person.

67. The amount by which the total value of the plots included in the final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme or the date of a notification under sub-section (*1*) of section 24 and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to reconstituted plot or extinction of such right.

68. Any right in an original plot which in the opinion of the Town Planning Officer is capable of being transferred wholly or in part, without prejudice to the making of a town-planning scheme to a re-constituted plot shall be so transferred and any right in an original plot which in the opinion of the Town Planning Officer is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a reconstituted plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme.

69. The owner of any property or right which is injuriously affected by the making of a town planning scheme shall, if he makes a claim before the Town Planning Officer within the prescribed time, be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person as the Town Planning Officer may in each case determine:

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme or the date of a notification under sub-section (*1*) of section 24 without reference to improvements contemplated in the scheme.

Exclusion or limitation of compensation in certain cases.

70. (*1*) No compensation shall be payable in respect of any property or private right of any sort which is alleged to be injuriously affected by reason of any provisions contained in the town planning scheme, if under any other law for the time being in force applicable to the area for which such scheme is made no compensation is payable for such injurious affection.

(*2*) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision inserted in a town planning scheme which, with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any conditions and restrictions in regard to any of the matters specified in sub-clause (*j*) of clause (2) of section 18.

Provision for case in which amount payable to owner exceeds amount due from him.

71. If the owner of an original plot is not provided with a plot in the final scheme or if the contribution to be levied from him under section 66 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the local authority in cash or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner.

72. (*1*) If from any cause the total amount which would be due to the local authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the Town Planning Officer shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

(*2*) If such owner fails to make such payment within the prescribed period the Town Planning Officer shall, if the local authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme or the date of a notification under sub-section (*1*) of section 24 and without reference to improvements contemplated in the scheme; and thereupon the plot included in the final scheme shall vest absolutely in the local authority free from all encumbrances but subject to the provisions of this Act:

Provided that the payment made by the local authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account.

73. All payments due to be made to any person by the local authority under this Act shall, as far as possible, be made by an adjustment in such person's account with the local authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to local authority.

74. (*1*) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in one sum or annual instalments not exceeding ten. If the owner elects to pay the amount by instalments, interest at 4½ per cent. per annum shall be charged on the net amount payable. If the owner of a plot fails to elect the option on or before the date specified in a notice issued to him in that behalf by the local authority, he shall be deemed to have elected the option of paying contribution by instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to make an election as aforesaid.

(*2*) Where two or more plots included in the final scheme are in the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot unless the owner and the local authority agree to a different method of distribution.

Power of local authority to make agreements.

75. (*1*) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town planning scheme subject to the power of the State Government to modify or disallow such agreement and unless it is otherwise expressly provided therein, such

agreement shall take effect on and after the day on which the town planning scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the Town Planning Officer as described in Chapter V or the rights of third parties but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the Town Planning Officer:

Provided that if the agreement is modified by Government, either party shall have the option of avoiding it if it so elects.

Recovery of arrears.

76. (1) Any sum due to the local authority under this Act or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payment of land revenue, if any, due to the Government thereon.

(2) Any sum due to the local authority under this Act or any regulation made thereunder which is not paid on demand on the day on which it becomes due or on the day fixed by the local authority shall be recoverable by the local authority by distress and sale of the goods and chattel of the defaulter, as if the amount thereof were a property tax due by the said defaulter.

(3) In lieu of the recovery of the dues of the local authority in the manner provided in sub-section (2) or after recovering part of the dues of the local authority in the manner provided in sub-section (2) any sum due or the balance of any sum due, as the case may be, by such defaulter may be recovered from him by a suit in any court of competent jurisdiction.

Powers of local authority to borrow money for development plan or for making or executing town pla-

77. (1) A local authority may, for the purpose of a development plan or the making or execution of a town planning scheme, borrow loans in accordance with the provisions of the Act under which the local authority is constituted or if such Act does not contain any provision for such borrowing, in accordance with the Local Authorities Loans Act, 1914.

IX of 1914.

(2) Any expenses incurred by a local authority or the State Government under this Act or in connection with a development plan or a town-planning sche may be defrayed out of the funds of the local authority.

Offences and penalties.

78. Whoever—

(a) does any work in contravention of section 12,

(b) contravenes the conditions of the commencement certificate granted under sub-section (1) of section 13 or of the sanction granted under sub-section (2) of section 16,

(c) does any work inspite of the refusal to grant a commencement certificate under sub-section (1) of section 13 or sanction under sub-section (2) of section 16,

(d) does any work in contravention of clause (a) or (b) of sub-section (1) of section 29,

shall, on conviction, be punished with fine which may extend to Rs. 1,000 and the Court shall, in such order of conviction, direct that if such contravention continues after the date of the order of conviction, a fine not exceeding Rs. 50 per day for the period during which the contravention continues shall be recovered from the person so convicted :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, the fine shall not be less than two hundred rupees and in the case of a continuing contravention of the provisions, the fine shall not be less than twenty-five rupees.

CHAPTER IX.

Miscellaneous.

Bar of legal proceedings.

79. No suit or other legal proceedings shall be maintained against the State Government, the local authority or any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Registration of documents, plan or map in connection with final scheme not required.

80. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked. XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act : XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Compulsory acquisition of land needed for purpose of town planning scheme or development plan.

81. Land needed for the purpose of a town-planning scheme or development plan shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894.

Vesting of property and rights of local authority ceasing to exist or ceasing to have jurisdiction.

82. When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town-planning scheme, the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the State Government may, with the consent of such authority or authorities, by notification in the *Official Gazette*, direct ; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such schemes or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.

State Government or person appointed by it may exercise power or perform duty conferred or imposed on local authority and disbursement of expenses.

83. (*1*) If in the opinion of the State Government, any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the State Government or any person or persons appointed in this behalf by the State Government, may exercise such power or perform such duty.

(*2*) Any expenses incurred by the State Government or by such person in exercising such power or performing such duty shall be paid out of the funds of the local authority and the State Government may make an order directing any person who for the time being has custody of any such funds to pay such expenses from such funds and such person shall be bound to obey such order.

Power of State Government to acquire lands included in town-planning scheme.

84. (*1*) If at any time the State Government is of opinion that any land included in a town-planning scheme is needed for a public purpose other than that for which it is included in the scheme, it may make a declaration to that effect in the *Official Gazette* in the manner provided in section 6 of the Land Acquisition Act, 1894. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section.

I of 1894.

(*2*) On the publication of a declaration under sub-section (*1*), the Collector shall proceed to take order for the acquisition of the land and the provisions of the Land Acquisition Act, 1894, as amended by the Schedule to this Act shall, so far as may be, apply to the acquisition of the said land.

I of 1894.

I of 1894.

(*3*) In the proceedings under the Land Acquisition Act, 1894, the local authority concerned shall be deemed to be a person interested in the land acquired and in determining the amount of compensation to be awarded to the local authority the Collector or the Court, as the case may be, may take into consideration the value, if any, paid by the local authority for the acquisition of the said land under section 81 or otherwise and the proportionate cost of the scheme, if any, incurred by the local authority and rendered abortive by reason of the variation of the scheme on account of such acquisition.

(*4*) On the land vesting in the Government under section 16 or 17 of the Land Acquisition Act, 1894, as the case may be, the scheme shall be deemed to have been suitably varied by reason of acquisition of the land.

1 of 1894.

Special provision in case of dissolution or supersession of municipality, corporation or panchayat.

85. Where a municipality is dissolved or superseded under sub-section (*1*) of section 179 of the Bombay District Municipal Act, 1901, or under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925, or where a municipal corporation is superseded under sub-section (*1*) of section 452 of the Bombay Provincial Municipal Corporations Act, 1949, or where a panchayat referred to in sub-clause (*b*) of clause (4) of section 2 of this Act is dissolved or superseded under sub-section (*1*) of section 102 of the Bombay Village Panchayats Act, 1933,—

Bom. III of 1901. Bom. XVIII of 1925. Bom. LIX of 1949. Bom. VI of 1933.

(*a*) the person or persons appointed under clause (*b*) of sub-section (*3*) of the said section 179 of the Bombay District Municipal Act, 1901, or under clause (*b*) of sub-section (*2*) of the said section 219 of the Bombay Municipal Boroughs Act, 1925, or under clause (*c*) of sub-section (*2*) of the said section 452 of the Bombay Provincial Municipal Corporations Act, 1949, or under clause (*a*) of sub-section (*4*) of the said section 102 of the Bombay Village Panchayats Act, 1933, as the case may be, shall be deemed to be a municipality, corporation or panchayat, as the case may be, within the meaning of clause (4) of section 2 of this Act, and may exercise all the powers and perform all the duties of a local authority under this Act, during the period of dissolution or supersession of such municipality, corporation or panchayat;

Bom. III of 1901. Bom. XVIII of 1925. Bom. LIX of 1949. Bom. VI of 1933.

(*b*) in the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a local authority under this Act, any property which may under the provisions of this Act vest in the local authority exercising such powers and performing such duties shall, during the period of dissolution or supersession of the municipality, corporation or panchayat, as the case may be, vest in the State Government, and such property shall, at the end of the said period, vest in such municipality, corporation or panchayat as the State Government may by notification in the *Official Gazette* direct.

Powers of local authority to be exercised by certain officers.

86. For the purposes of sections 29, 54 and 55 the powers and functions of a local authority shall be exercised and performed by the following authorities, namely :—

(*1*) in the case of the Bombay Municipal Corporation and any municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, by the Municipal Commissioner, Bom. LIX of 1949.

(*2*) in the case of a municipal borough, by the Chief Officer of the municipal borough, and

(*3*) in the case of any other local authority, by the person exercising the powers of the Chief Executive authority.

Rules.

87. (*1*) The State Government may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may be made to determine the following matters :—

(*a*) the procedure to be followed by the officer appointed to hold an inquiry for the purpose of deciding a disputed claim as to ownership under section 19 ;

(*b*) the notice to be given under section 20 ;

(*c*) the manner of publication of a declaration of intention to make a scheme under sub-section (*2*) of section 22 ;

(*d*) the manner of publication of a draft scheme under section 23 ;

(*e*) the further particulars to be prescribed for inclusion in the draft scheme under clause (*h*) of section 25 ;

(*f*) the manner in which and the method according to which compensation shall be payable under section 26 ;

(*g*) the form of the commencement certificate to be granted by a local authority under clause (*a*) of sub-section (*1*) of section 29 and the conditions, if any, to be included therein ;

(*h*) the procedure to be followed by a local authority in making an inquiry under clause (*c*) of sub-section (*1*) of section 29 ;

(*i*) the procedure to be prescribed under section 32 and the notices to be given under clauses (*i*), (*ii*) and (*xiii*) of sub-section (*1*) of that section ;

(*j*) the form in which the Town Planning Officer is to draw up the final scheme under clause (*xiv*) of sub-section (*1*) of section 32 ;

(*k*) the manner of preparing a preliminary scheme under section 45 ;

(*l*) the manner of giving notice under section 46 ;

(*m*) the procedure to be followed by the local authority in summarily evicting a person under section 54 ;

(*n*) the notice to be given by the local authority before it takes action under section 55 ;

(*o*) the manner of publication of a draft variation under sub-section (*2*) and the particulars which a draft variation shall contain under sub-section (*3*) of section 56 ;

(*p*) the manner of election of representatives of the several local authorities under sub-section (*3*) of section 62;

(*q*) the time to be allowed for making a claim to compensation under section 69;

(*r*) the period within which payment is to be made to the local authority under section 72;

(*s*) the manner in which documents, plans and maps shall be made accessible to the public under proviso to section 80;

(*t*) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient;

(*u*) the procedure to be followed by a Town Planning Officer appointed under this Act;

(*v*) the procedure to be followed generally in carrying out the provisions and objects of this Act;

(*w*) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.

(*3*) A rule made under this section may provide that a contravention of any of the provisions of the rules which are specified in such rule shall be punishable with fine which may extend to Rs. 1,000 and in the case of continuing contravention with an additional fine which may extend to Rs. 10 for every day during which such contravention continues after conviction for the first such contravention.

(*4*) The power to make rules under this Act shall be subject to the condition of previous publication.

Regulations.

88. (*1*) The State Government may make regulations to carry out the purposes included in a development plan.

(*2*) The power to make regulations under sub-section (*1*) shall be subject to the condition of previous publication.

No town-planning scheme or development plan for area for which housing schemes are sanctioned under Bom. LXIX of 1948.

89. Notwithstanding anything contained in this Act, no development plan or town-planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.

Bom. LXIX of 1948.

Repeal and saving.

Bom. I of 1915.

90. (*1*) The Bombay Town Planning Act, 1915, is hereby repealed.

(*2*) Notwithstanding the repeal of the said Act, any declaration of intention to make a scheme, any application made to the State Government for sanction of the making of the scheme, any draft scheme published by a local authority, any application made to the State Government for the sanction of the draft scheme, any sanction given by the State Government to the draft scheme, any restriction imposed upon an owner of land or building against the erection or re-erection of any building or works, any commencement certificate granted, any order of suspension of rule, by-law, regulation,

notification or order made, any appointment made of an arbitrator, any proceeding pending before the arbitrator, any final scheme forwarded to, or sanctioned or varied by the State Government, any recoveries to be made or compensation to be given in respect of any plot under the repealed Act shall, in so far as it is not inconsistent with this Act, continue in force thereunder and provision of this Act shall have effect in relation to such publication, declaration of intention, draft scheme, final scheme, sanction, variation, restriction, proceedings suspension, recoveries or compensation.

(*3*) All proceedings pending before the Tribunal of Arbitration at the date when this Act comes into force shall be continued before and disposed of by the Board of Appeal, under this Act as if an appeal has been made to it in respect thereof.

SCHEDULE.

(*See* sections 11 and 84.)

Amendments to the Land Acquisition Act, 1894.

Amendment of section 23 of Act I of 1894.

1. For section 23 of the Land Acquisition Act, 1894 (hereinafter called the said Act), the following shall be substituted, namely :— Bom. I of 1894.

Matters to be considered in determining compensation.

"23. In determining the amount of compensation to be awarded for the land or any interest therein acquired under this Act, the Court shall take into consideration the following :—

(1) the market value at the date of the publication of the declaration under section 6 ;

(2) the use to which the land was put at the date of such declaration ;

(3) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time when the possession was taken from him ;

(4) the damage (if any) sustained by the person interested at the time of the possession being taken from him by reason of severing such land from his other land ;

(5) the damage (if any) sustained by the person interested at the time of the possession being taken from him of the land by reason of the acquisition injurously affecting his other property, moveable or immoveable, in any other manner or his earnings ;

(6) if in consequence of the acquisition of the land the person interested is compelled to change his residence, or place of business, the reasonable expenses, if any, incidental to such change."

Amendment of section 24 of Act I of 1894.

2. For section 24 of the said Act, the following shall be substituted, namely :—

Matters to be neglected in determining compensation.

"24. The Court shall not take into consideration the following :—

(1) the degree of urgency which has led to the acquisition ;

(2) any disinclination of the person interested to part with the land acquired ;

(3) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

(4) any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;

(5) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

(6) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ;

(7) any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the local authority after the date of the publication of the notification under section 6 ;

(8) the special suitability or adaptability of the land for any purpose, if that purpose is a purpose to which it could be applied in pursuance of any law, or for which there is no market apart from the special needs of the local authority ;

(9) any increase in the value of the land by reason of the use thereof or any premises thereon in a manner which could be restrained by any court, or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health."

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